

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
JUNTAI SOWELLS,

Plaintiff,

Index No.: 22465/12E

-against-

CITY OF NEW YORK, POLICE OFFICER STEVEN
LOPEZ, BADGE NUMBER 11248, AND SEVERAL
UNIDENTIFIED POLICE OFFICERS ASSIGNED
TO THE 46TH PRECINCT,

VERIFIED COMPLAINT

Defendants.
-----X

Plaintiff JUNTAI SOWELLS by and through his attorneys, TRACIE A. SUNDACK & ASSOCIATES, L.L.C., complaining of Defendants CITY OF NEW YORK, POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT respectfully alleges as follows:

K 1. That Plaintiff JUNTAI SOWELLS is a black male, a citizen of the United States, and at all relevant times a resident of the City and State of New York.

7 2. That at all times hereinafter mentioned Defendant CITY OF NEW YORK was and still is a municipal corporation duly organized and existing under and by virtue of the General Municipal Law of the State of New York.

7 3. That Defendant CITY OF NEW YORK maintains the New York City Police Department, a duly authorized public authority and/or police department, authorized to perform all functions of a police department as per the applicable sections of the New York State Criminal Procedure Law, acting under the direction, control, and supervision of the aforementioned municipal corporation, City of New York.

K 4. That at all times hereinafter mentioned, Defendant POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, was employed by the New York City Police Department as a duly sworn police officer and was acting under the supervision of said department and according to his official duties.

K 5. That at all times hereinafter mentioned, Defendant POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, acted within the scope of his employment by Defendant CITY OF NEW YORK.

D 6. That at all times hereinafter mentioned, Defendant POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, was acting under the color of state law and/or in compliance with the official rules, regulations, laws, statutes, customs, usages, and or practices of the State or City of New York.

K 7. That each and all of the acts of Defendant POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, were done by said Defendant while acting in furtherance of his employment by Defendant CITY OF NEW YORK.

K 8. That at all times hereinafter mentioned, Defendants SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT were employed by the New York City Police Department as a duly sworn police officers and were acting under the supervision of said department and according to their official duties.

K 9. That at all times hereinafter mentioned, Defendants SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT acted within the scope of their employment by Defendant CITY OF NEW YORK.

D 10. That at all times hereinafter mentioned, Defendants SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT were acting under the color of state law and/or in compliance with the official rules, regulations, laws, statutes, customs, usages, and or practices of the State or City of New York.

K 11. That each and all of the acts of Defendants SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT were done by said Defendants while acting in furtherance of their employment by Defendant CITY OF NEW YORK.

K 12. That at all relevant times, Plaintiff JUNTAI SOWELLS was the operator of a 2004 Hyundai bearing New York State License Plate Number EUY2076 (hereinafter "2004 Hyundai"), and was operating that vehicle with the knowledge and consent of the owner, Nicole Myers.

K 13. That on May 8, 2010, at approximately 11:30 p.m., Plaintiff JUNTAI SOWELLS was lawfully operating the 2004 Hyundai on Jerome Avenue, near its intersection with West Tremont Avenue, in the County of Bronx, City and State of New York, when the vehicle was ordered to stop by members of the New York City Police Department including, but not limited to, Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT.

D 14. That at the aforementioned date, time and place, Plaintiff JUNTAI SOWELLS complied with Defendants' order. Thereafter, Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, ordered the occupants of the 2004 Hyundai, including Plaintiff JUNTAI SOWELLS, to exit the vehicle. Plaintiff JUNTAI SOWELLS complied and, upon exiting the vehicle, he was searched by Defendant POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT. Thereafter Plaintiff JUNTAI SOWELLS was handcuffed and placed under arrest for Criminal Possession of a Weapon and Criminal Possession of Marijuana, despite Defendants' knowledge that they lacked reasonable grounds or probable cause to do so.

K 15. That Plaintiff JUNTAI SOWELLS was transported to the 46th Precinct (2120 Ryer Avenue, Bronx, New York 10457), and then to Bronx Central Booking (215 East 161st Street, Bronx, New York) where his arrest was processed.

K 16. That Plaintiff JUNTAI SOWELLS was subsequently arraigned, and following said arraignment, was transferred to Rikers Island.

D 17. That Defendants CITY OF NEW YORK, POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, initiated criminal proceedings against Plaintiff JUNTAI SOWELLS despite Defendants' knowledge that they lacked probable cause to do so.

K 18. That Plaintiff JUNTAI SOWELLS was incarcerated by Defendant CITY OF NEW YORK, its agents, servants, and employees from May 8, 2010, until May 13, 2011, when he was incarcerated.

released from custody following the posting of bail.

K 19. That on September 21, 2011, by Order of the Honorable H. Adler, all charges against Plaintiff JUNTAI SOWELLS were dismissed (Docket Number 2010BX29365).

3 20. That on or December 13, 2011, within 90 days of the happening of the complained of incident but more than 30 days prior to the commencement of this action, Plaintiff JUNTAI SOWELLS duly presented, served, and filed a Notice of Claim, in writing, upon the Comptroller of Defendant CITY OF NEW YORK, setting forth the name and post office address of claimant; the nature of the claim, the time when, the place where, and the manner in which the claim arose.

3 21. That more than 30 days have elapsed since service of said Notice of Claim and payment or adjustment thereof has been neglected or refused on behalf of Defendants CITY OF NEW YORK, POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT.

3 22. This action is commenced within one year and ninety days after the cause of action arose.

D 23. As a result of the foregoing, Plaintiff JUNTAI SOWELLS sustained, *inter alia*, physical injuries, emotional distress, embarrassment, humiliation, and deprivation of his constitutional rights.

**AS AND FOR A FIRST CAUSE OF ACTION FOR FALSE ARREST
UNDER 42 U.S.C. § 1983**

8 24. Plaintiff JUNTAI SOWELLS repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges:

D 25. That at the aforementioned time and place, Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, placed Plaintiff JUNTAI SOWELLS under arrest, despite Defendants' knowledge that they lacked probable cause to do so.

D 26. That Plaintiff JUNTAI SOWELLS had not committed any offense and Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, did not have

reasonable grounds or probable cause to believe that Plaintiff had committed any offense.

D 27. That Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, were aware that probable cause did not exist for the arrest and detention of Plaintiff JUNTAI SOWELLS and that said arrest and detention was illegal, without justification or excuse, and without authority of law, and the Defendants acted with malicious intent to arrest, oppress, and injure Plaintiff JUNTAI SOWELLS and such actions were committed in bad faith.

D 28. That, in all of the wrongful acts above alleged, Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, acted without reasonable or probable cause and with malicious intent to arrest, oppress, and injure Plaintiff JUNTAI SOWELLS and such actions were committed in bad faith.

D 29. As a direct and proximate result of the above-described unlawful and malicious acts of Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, all committed under color of their authority as police officers, and while acting in that capacity, Plaintiff JUNTAI SOWELLS was deprived of the rights and immunities secured to him under the Constitutions and laws of the United States and of the State of New York, in particular the First, Fourth, Fifth, Eighth and Fourteenth Amendments thereof, and 42 U.S.C. §§ 1981, 1983, and 1985 (2) and (3), his liberty was restricted for an extended period of time, he was put in fear for his safety, and he was humiliated and subjected to handcuffing and other physical restraints, without probable cause.

D 30. As a further result of the above-described acts, Plaintiff JUNTAI SOWELLS was deprived of the rights and immunities secured to him under the Constitution and laws of the United States and of the State of New York.

AS AND FOR A SECOND CAUSE OF ACTION FOR FALSE IMPRISONMENT
UNDER 42 U.S.C. § 1983

8 31. Plaintiff JUNTAI SOWELLS repeats, reiterates, and realleges each and every

paragraph of this complaint and further alleges:

D 32. That Plaintiff JUNTAI SOWELLS was falsely imprisoned from May 8, 2010, to May 13, 2011, by Defendant CITY OF NEW YORK, its agents, servants, and employees, including but not limited to Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, who procured and/or effected said false imprisonment knowing their actions to be wrongful and malicious and without any basis.

D 33. That Defendant CITY OF NEW YORK by and through its agents, servants, and employees, including but not limited to, Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, intended to confine Plaintiff JUNTAI SOWELLS, and Plaintiff JUNTAI SOWELLS was conscious of the confinement, and Plaintiff JUNTAI SOWELLS did not consent to the confinement.

D 34. That Defendants' words, actions, and the charges laid by them were willful, malicious, false, wrongful, without reason or basis and without probable cause and committed in bad faith and solely for the purpose of falsely imprisoning Plaintiff JUNTAI SOWELLS and damaging Plaintiff JUNTAI SOWELLS in his reputation and depriving him of his liberty.

D 35. That as a direct and proximate result of the above-described unlawful and malicious acts of Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, all committed under color of their authority as police officers for Defendant CITY OF NEW YORK, and while acting in that capacity, Plaintiff JUNTAI SOWELLS suffered damage, all of which is in violation of his rights under the Constitution and laws of the United States and of the State of New York.

AS AND FOR A THIRD CAUSE OF ACTION FOR MALICIOUS PROSECUTION
UNDER 42 U.S.C. § 1983

§ 36. Plaintiff JUNTAI SOWELLS repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges:

D 37. That Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT misrepresented and falsified evidence before the District Attorney.

D 38. That Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, did not make a complete and full statement of facts to the District Attorney.

D 39. That Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT withheld exculpatory evidence from the District Attorney.

K 40. That Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, were directly and actively involved in the initiation of criminal proceedings against Plaintiff JUNTAI SOWELLS.

D 41. That Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, lacked probable cause to initiate criminal proceedings against Plaintiff JUNTAI SOWELLS.

D 42. That Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, acted with malice in initiating criminal proceedings against Plaintiff JUNTAI SOWELLS.

K 43. That Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, were directly and actively involved in the continuation of criminal proceedings against Plaintiff JUNTAI SOWELLS.

D 44. That Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, lacked probable cause to continue criminal proceedings against Plaintiff JUNTAI SOWELLS.

D 45. That Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, acted with malice in continuing criminal proceedings Plaintiff JUNTAI SOWELLS.

D 46. That Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, misrepresented and falsified evidence throughout all phases of the criminal proceeding.

D 47. That, notwithstanding the perjurious and fraudulent conduct of Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, the criminal proceedings were terminated in Plaintiff JUNTAI SOWELLS's favor.

**AS AND FOR A FOURTH CAUSE OF ACTION FOR MALICIOUS PROSECUTION
UNDER NEW YORK STATE LAW**

8 48. Plaintiff JUNTAI SOWELLS repeats, reiterates and realleges each and every paragraph of this complaint and further alleges:

D 49. On or about May 8, 2010, Defendant CITY OF NEW YORK, its agents, servants, and employees, including Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, commenced a criminal proceeding against Plaintiff JUNTAI SOWELLS, and falsely and maliciously, and without probable cause, charged Plaintiff with crimes.

D 50. Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, with the consent and participation of one another, continued said proceeding despite the fact that they knew or should have known that Plaintiff JUNTAI SOWELLS had not committed any crimes, that there were no exigent circumstances justifying a warrantless arrest, and that there was no need for the arrest and imprisonment of Plaintiff.

K 51. Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, were directly and actively involved in the initiation of criminal proceedings against Plaintiff JUNTAI SOWELLS.

D 52. Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, lacked probable cause to initiate criminal proceedings against Plaintiff JUNTAI SOWELLS.

D 53. Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, were motivated by actual malice in initiating criminal proceedings against Plaintiff JUNTAI SOWELLS.

D 54. Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, misrepresented and falsified evidence before the District Attorney.

D 55. Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, did not make a complete and full statement of facts to the District Attorney.

D 56. Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, withheld exculpatory evidence from the District Attorney.

K 57. Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, were directly and actively involved in the continuation of criminal proceedings against Plaintiff JUNTAI SOWELLS.

D 58. Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, lacked probable cause to continue criminal proceedings against Plaintiff JUNTAI SOWELLS.

D 59. Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, were motivated by actual malice in continuing criminal proceedings against Plaintiff JUNTAI SOWELLS.

D 60. That, notwithstanding the perjurious and fraudulent conduct of Defendants, the criminal proceedings were terminated in Plaintiff JUNTAI SOWELLS's favor.

AS AND FOR A FIFTH CAUSE OF ACTION FOR MUNICIPAL LIABILITY

8 61. Plaintiff JUNTAI SOWELLS repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges:

D 62. That Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, while acting under color of state law, engaged in conduct that constituted a custom, usage, practice, procedure or rule of the respective municipality/ authority, which is forbidden by the Constitution of the United States.

D 63. That the aforementioned customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department included, but were not limited to, wrongfully detaining minority males based on racial profiling and making unlawful arrests in order to satisfy an arrest quota.

D 64. That the foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department constituted deliberate indifference to the safety, well- being and constitutional rights of Plaintiff JUNTAI SOWELLS.

D 65. That the foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department were the direct and proximate cause of the constitutional violations suffered by Plaintiff JUNTAI SOWELLS as alleged herein.

D 66. That the foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department were the moving force behind the constitutional violations suffered by Plaintiff JUNTAI SOWELLS as alleged herein.

D 67. That Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, while acting under the color of state law, was directly and actively involved in violating Plaintiff JUNTAI SOWELLS's constitutional rights.

D 68. That all of the foregoing acts by Defendant CITY OF NEW YORK, its agents, servants and/or employees including Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, deprived Plaintiff JUNTAI SOWELLS of federally protected rights including, but not limited to, the right:

a-g

- A. Not to be deprived of liberty without due process;
- B. To be free from seizure and arrest not based on probable cause;
- C. To be free from unlawful search;
- D. To be free from unwarranted and malicious criminal prosecution;
- E. To be free from malicious abuse of process;
- F. Not to have cruel and unusual punishment imposed upon him;
- G. To receive equal protection under the law.

AS AND FOR A SIXTH CAUSE OF ACTION FOR FAILURE TO INTERVENE

8 69. Plaintiff JUNTAI SOWELLS repeats, reiterates and realleges each and every allegation contained in this complaint and further alleges:

D 70. That each and every individual Defendant had an affirmative duty to intervene on Plaintiff JUNTAI SOWELLS' behalf to prevent the violation of his constitutional rights and failed to so intervene despite having had a realistic opportunity to do so.

D 71. As a result of the aforementioned conduct of Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, Plaintiff JUNTAI SOWELLS' constitutional rights were violated and he was subjected to cruel and unusual punishment and sustained physical injuries.

**AS AND FOR A SEVENTH CAUSE OF ACTION FOR
NEGLIGENT HIRING AND RETENTION**

8 72. Plaintiff JUNTAI SOWELLS repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges:

D 73. That Defendant CITY OF NEW YORK was careless and reckless in hiring and retaining as and for its employee Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, in that said Defendant employees lacked the experience, deportment and ability to be employed by Defendant CITY OF NEW YORK; in that Defendant CITY OF NEW YORK failed to exercise due care and caution in its hiring practices, and in particular, in hiring the Defendant employees who lacked the mental capacity and the ability to function as employees of Defendant CITY OF NEW YORK; in that the defendant employees lacked the maturity, sensibility and intelligence to be employed by Defendant CITY OF NEW YORK; in that Defendant CITY OF NEW YORK knew of the lack of ability, experience, deportment and maturity of said defendant employees when they hired them to be employees; and, in that Defendant CITY OF NEW YORK, its agents, servants and/or employees were otherwise careless, negligent and reckless.

D 74. Defendant CITY OF NEW YORK knew, or should have known in the exercise of reasonable care, the propensities of Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, to engage in the wrongful conduct heretofore alleged in this Complaint.

**AS AND FOR A EIGHTH CAUSE OF ACTION FOR
NEGLIGENT TRAINING AND SUPERVISION**

8 75. Plaintiff JUNTAI SOWELLS repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges:

D 76. The failure of Defendant CITY OF NEW YORK to adequately train, supervise, discipline or in any way control the behavior of Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS

ASSIGNED TO THE 46TH PRECINCT, in the exercise of their employment functions, and the failure to enforce the laws of the State of New York and the regulations of Defendant CITY OF NEW YORK is evidence of the reckless lack of cautious regard for the rights of the public including Plaintiff JUNTAI SOWELLS. Further, the Defendants exhibited a lack of that degree of due care which prudent and reasonable individuals would show.

77. The failure of Defendant, CITY OF NEW YORK, to train, supervise, discipline or in any other way control Defendants POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, in the exercise of their employment functions and the failure to enforce the laws of the State of New York and the regulations of Defendant CITY OF NEW YORK, was carried out willfully, wantonly, maliciously and with such reckless disregard for the consequences as to display a conscious disregard for the dangers of harm and injury to the citizens of New York, including Plaintiff JUNTAI SOWELLS.

**AS AND FOR A NINTH CAUSE OF ACTION FOR
RESPONDEAT SUPERIOR LIABILITY**

78. Plaintiff JUNTAI SOWELLS repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges:

79. Defendant CITY OF NEW YORK is vicariously liable for the acts of its employees and agents who were on duty and acting in the scope of their employment when they engaged in the wrongful conduct described herein.

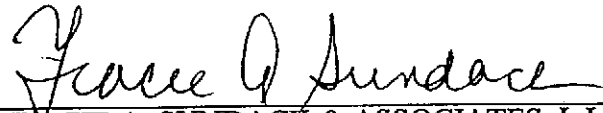
80. As a result of the foregoing, Plaintiff JUNTAI SOWELLS is entitled to compensatory damages in the sum of Two Million Dollars (\$2,000,000.00) and is further entitled to punitive damages in the sum of Four Million Dollars (\$4,000,000.00)

*Sum
Attended*

WHEREFORE Plaintiff JUNTAI SOWELLS demands judgment against Defendants CITY OF NEW YORK, POLICE OFFICER STEVEN LOPEZ, BADGE NUMBER 11248, and SEVERAL UNIDENTIFIED POLICE OFFICERS ASSIGNED TO THE 46TH PRECINCT, jointly and severally, in the amount of Two Million Dollars (\$2,000,000.00) in compensatory

damages and Four Million Dollars (\$4,000,000.00) in punitive damages, plus reasonable attorney's fees, costs and disbursements of this action.

Dated: White Plains, New York
October 12, 2012

A handwritten signature in black ink, appearing to read "Tracie A. Sundack". The signature is fluid and cursive, with a horizontal line drawn underneath it.

TRACIE A. SUNDACK & ASSOCIATES, L.L.C.
Attorneys for Plaintiff
JUNTAI SOWELLS
19 Court Street, 3rd Floor
White Plains, New York 10601
(914) 946-8100

ATTORNEY'S VERIFICATION

STATE OF NEW YORK)
) SS.:
COUNTY OF WESTCHESTER)


I, the undersigned, an attorney admitted to practice in the Courts of the State of New York, state:

That I am the attorney of record for the Plaintiff in the within action.

That I have read the foregoing SUMMONS and COMPLAINT and know the contents thereof; the same is true to my own knowledge, except for the matters therein alleged to be on information and belief, and as to those matters I believe them to be true. The reason this Verification is made by me and not by the Plaintiff is that the Plaintiff resides outside the County where your affirmant maintains her office. The grounds of my belief as to all matters not stated upon my own knowledge are as follows: files maintained by my office and conversations with the Plaintiff.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: White Plains, New York
October 12, 2012



TRACIE A. SUNDACK